

Union Calendar No. 481

106TH CONGRESS
2^D SESSION

S. 1508

[Report No. 106–819, Part I]

IN THE HOUSE OF REPRESENTATIVES

JANUARY 27, 2000

Referred to the Committee on Resources, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 6, 2000

Reported from the Committee on Resources

SEPTEMBER 6, 2000

Referral to the Committee on the Judiciary extended for a period ending not later than September 6, 2000

SEPTEMBER 6, 2000

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

AN ACT

To provide technical and legal assistance to tribal justice systems and members of Indian tribes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Indian Tribal Justice
3 Technical and Legal Assistance Act of 1999”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds and declares that—

6 (1) there is a government-to-government rela-
7 tionship between the United States and Indian
8 tribes;

9 (2) Indian tribes are sovereign entities and are
10 responsible for exercising governmental authority
11 over Indian lands;

12 (3) the rate of violent crime committed in In-
13 dian country is approximately twice the rate of vio-
14 lent crime committed in the United States as a
15 whole;

16 (4) in any community, a high rate of violent
17 crime is a major obstacle to investment, job creation
18 and economic growth;

19 (5) tribal justice systems are an essential part
20 of tribal governments and serve as important forums
21 for ensuring the health and safety and the political
22 integrity of tribal governments;

23 (6) Congress and the Federal courts have re-
24 peatedly recognized tribal justice systems as the
25 most appropriate forums for the adjudication of dis-

1 putes affecting personal and property rights on Na-
2 tive lands;

3 (7) enhancing tribal court systems and improv-
4 ing access to those systems serves the dual Federal
5 goals of tribal political self-determination and eco-
6 nomic self-sufficiency;

7 (8) there is both inadequate funding and an in-
8 adequate coordinating mechanism to meet the tech-
9 nical and legal assistance needs of tribal justice sys-
10 tems and this lack of adequate technical and legal
11 assistance funding impairs their operation;

12 (9) tribal court membership organizations have
13 served a critical role in providing training and tech-
14 nical assistance for development and enhancement of
15 tribal justice systems;

16 (10) Indian legal services programs, as funded
17 partially through the Legal Services Corporation,
18 have an established record of providing cost effective
19 legal assistance to Indian people in tribal court fo-
20 rums, and also contribute significantly to the devel-
21 opment of tribal courts and tribal jurisprudence; and

22 (11) the provision of adequate technical assist-
23 ance to tribal courts and legal assistance to both in-
24 dividuals and tribal courts is an essential element in
25 the development of strong tribal court systems.

1 **SEC. 3. PURPOSES.**

2 The purposes of this Act are as follows:

3 (1) to carry out the responsibility of the United
4 States to Indian tribes and members of Indian tribes
5 by ensuring access to quality technical and legal as-
6 sistance.

7 (2) To strengthen and improve the capacity of
8 tribal court systems that address civil and criminal
9 causes of action under the jurisdiction of Indian
10 tribes.

11 (3) To strengthen tribal governments and the
12 economies of Indian tribes through the enhancement
13 and, where appropriate, development of tribal court
14 systems for the administration of justice in Indian
15 country by providing technical and legal assistance
16 services.

17 (4) To encourage collaborative efforts between
18 national or regional membership organizations and
19 associations whose membership consists of judicial
20 system personnel within tribal justice systems; non-
21 profit entities which provide legal assistance services
22 for Indian tribes, members of Indian tribes, and/or
23 tribal justice systems.

24 (5) To assist in the development of tribal judi-
25 cial systems by supplementing prior Congressional

1 efforts such as the Indian Tribal Justice Act (Public
2 Law 103–176).

3 **SEC. 4. DEFINITIONS.**

4 For purposes of this Act:

5 (1) ATTORNEY GENERAL.—The term “Attorney
6 General” means the Attorney General of the United
7 States.

8 (2) INDIAN LANDS.—The term “Indian lands”
9 shall include lands within the definition of “Indian
10 country”, as defined in 18 U.S.C. 1151; or “Indian
11 reservations”, as defined in section 3(d) of the In-
12 dian Financing Act of 1974, 25 U.S.C. 1452(d), or
13 section 4(10) of the Indian Child Welfare Act, 25
14 U.S.C. 1903(10). For purposes of the preceding sen-
15 tence, such section 3(d) of the Indian Financing Act
16 shall be applied by treating the term “former Indian
17 reservations in Oklahoma” as including only lands
18 which are within the jurisdictional area of an Okla-
19 homa Indian Tribe (as determined by the Secretary
20 of Interior) and are recognized by such Secretary as
21 eligible for trust land status under 25 CFR part 151
22 (as in effect on the date of enactment of this sen-
23 tence).

24 (3) INDIAN TRIBE.—The term “Indian tribe”
25 means any Indian tribe, band, nation, pueblo, or

1 other organized group or community, including any
2 Alaska Native entity, which administers justice or
3 plans to administer justice under its inherent au-
4 thority or the authority of the United States and
5 which is recognized as eligible for the special pro-
6 grams and services provided by the United States to
7 Indian tribes because of their status as Indians.

8 (4) JUDICIAL PERSONNEL.—The term “judicial
9 personnel” means any judge, magistrate, court coun-
10 selor, court clerk, court administrator, bailiff, proba-
11 tion officer, officer of the court, dispute resolution
12 facilitator, or other official, employee, or volunteer
13 within the tribal judicial system.

14 (5) NON-PROFIT ENTITIES.—The term “non-
15 profit entity” or “non-profit entities” has the mean-
16 ing given that term in section 501(c)(3) of the Inter-
17 nal Revenue Code.

18 (6) OFFICE OF TRIBAL JUSTICE.—The term
19 “Office of Tribal Justice” means the Office of Tribal
20 Justice in the United States Department of Justice.

21 (7) TRIBAL JUSTICE SYSTEM.—The term “trib-
22 al court”, “tribal court system”, or “tribal justice
23 system” means the entire judicial branch, and em-
24 ployees thereof, of an Indian tribe, including, but
25 not limited to, traditional methods and fora for dis-

1 pute resolution, trial courts, appellate courts, includ-
2 ing inter-tribal appellate courts, alternative dispute
3 resolution systems, and circuit rider systems, estab-
4 lished by inherent tribunal authority whether or not
5 they constitute a court of record.

6 **TITLE I—TRAINING AND TECH-**
7 **NICAL ASSISTANCE, CIVIL**
8 **AND CRIMINAL LEGAL AS-**
9 **SISTANCE GRANTS**

10 **SEC. 101. TRIBAL JUSTICE TRAINING AND TECHNICAL AS-**
11 **SISTANCE GRANTS.**

12 Subject to the availability of appropriations, the At-
13 torney General, in consultation with the Office of Tribal
14 Justice, shall award grants to national or regional mem-
15 bership organizations and associations whose membership
16 consists of judicial system personnel within tribal justice
17 systems which submit an application to the Attorney Gen-
18 eral in such form and manner as the Attorney General
19 may prescribe to provide training and technical assistance
20 for the development, enrichment, enhancement of tribal
21 justice systems, or other purposes consistent with this Act.

22 **SEC. 102. TRIBAL CIVIL LEGAL ASSISTANCE GRANTS.**

23 Subject to the availability of appropriations, the At-
24 torney General, in consultation with the Office of Tribal
25 Justice, shall award grants to non-profit entities, as de-

1 fined under section 501(c)(3) of the Internal Revenue
2 Code, which provide legal assistance services for Indian
3 tribes, members of Indian tribes, or tribal justice systems
4 pursuant to federal poverty guidelines that submit an ap-
5 plication to the Attorney General in such form and man-
6 ner as the Attorney General may prescribe for the provi-
7 sion of civil legal assistance to members of Indian tribes
8 and tribal justice systems, and/or other purposes con-
9 sistent with this Act.

10 **SEC. 103. TRIBAL CRIMINAL ASSISTANCE GRANTS.**

11 Subject to the availability of appropriations, the At-
12 torney General, in consultation with the Office of Tribal
13 Justice, shall award grants to non-profit entities, as de-
14 fined by section 501(c)(3) of the Internal Revenue Code,
15 which provide legal assistance services for Indian tribes,
16 members of Indian tribes, or tribal justice systems pursu-
17 ant to federal poverty guidelines that submit an applica-
18 tion to the Attorney General in such form and manner
19 as the Attorney General may prescribe for the provision
20 of criminal legal assistance to members of Indian tribes
21 and tribal justice systems, and/or other purposes con-
22 sistent with this Act. Funding under this title may apply
23 to programs, procedures, or proceedings involving adult
24 criminal actions, juvenile delinquency actions, and/or

1 guardian-ad-litem appointments arising out of criminal or
2 delinquency acts.

3 **SEC. 104. NO OFFSET.**

4 No Federal agency shall offset funds made available
5 pursuant to this Act for Indian tribal court membership
6 organizations or Indian legal services organizations
7 against other funds otherwise available for use in connec-
8 tion with technical or legal assistance to tribal justice sys-
9 tems or members of Indian tribes.

10 **SEC. 105. TRIBAL AUTHORITY.**

11 Nothing in this Act shall be construed to—

12 (1) encroach upon or diminish in any way the
13 inherent sovereign authority of each tribal govern-
14 ment to determine the role of the tribal justice sys-
15 tem within the tribal government or to enact and en-
16 force tribal laws;

17 (2) diminish in any way the authority of tribal
18 governments to appoint personnel;

19 (3) impair the rights of each tribal government
20 to determine the nature of its own legal system or
21 the appointment of authority within the tribal gov-
22 ernment;

23 (4) alter in any way any tribal traditional dis-
24 pute resolution fora;

1 (5) imply that any tribal justice system is an
2 instrumentality of the United States; or

3 (6) diminish the trust responsibility of the
4 United States to Indian tribal governments and trib-
5 al justice systems of such governments.

6 **SEC. 106. AUTHORIZATION OF APPROPRIATIONS.**

7 For purposes of carrying out the activities under this
8 title, there are authorized to be appropriated such sums
9 as are necessary for fiscal years 2000 through 2004.

10 **TITLE II—INDIAN TRIBAL**
11 **COURTS**

12 **SEC. 201. GRANTS.**

13 (a) IN GENERAL.—The Attorney General may award
14 grants and provide technical assistance to Indian tribes
15 to enable such tribes to carry out programs to support—

16 (1) the development, enhancement, and con-
17 tinuing operation of tribal justice systems; and

18 (2) the development and implementation of—

19 (A) tribal codes and sentencing guidelines;

20 (B) inter-tribal courts and appellate sys-
21 tems;

22 (C) tribal probation services, diversion pro-
23 grams, and alternative sentencing provisions;

1 (D) tribal juvenile services and multi-dis-
2 ciplinary protocols for child physical and sexual
3 abuse; and

4 (E) traditional tribal judicial practices, tra-
5 ditional tribal justice systems, and traditional
6 methods of dispute resolution.

7 (b) CONSULTATION.—In carrying out this section,
8 the Attorney General may consult with the Office of Tribal
9 Justice and any other appropriate tribal or Federal offi-
10 cials.

11 (c) REGULATIONS.—The Attorney General may pro-
12 mulgate such regulations and guidelines as may be nec-
13 essary to carry out this title.

14 (d) AUTHORIZATION OF APPROPRIATIONS.—For pur-
15 poses of carrying out the activities under this section,
16 there are authorized to be appropriated such sums as are
17 necessary for fiscal years 2000 through 2004.

18 **SEC. 202. TRIBAL JUSTICE SYSTEMS.**

19 Section 201 of the Indian Tribal Justice Act (25
20 U.S.C. 3621) is amended—

21 (1) in subsection (a), by striking “1994, 1995,
22 1996, 1997, 1998, 1999, and 2000” and inserting
23 “2000 through 2007”;

1 (2) in subsection (b), by striking “1994, 1995,
2 1996, 1997, 1998, 1999, and 2000” and inserting
3 “2000 through 2007”;

4 (3) in subsection (c), by striking “1994, 1995,
5 1996, 1997, 1998, 1999, and 2000” and inserting
6 “2000 through 2007”; and

7 (4) in subsection (d), by striking “1994, 1995,
8 1996, 1997, 1998, 1999, and 2000” and inserting
9 “2000 through 2007”.

Passed the Senate November 19, 1999.

Attest:

GARY SISCO,
Secretary.

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